

Remarks/Arguments

Claims 1-35 are pending in this application. Claim 26 has been amended herein at the suggestion of the Examiner. Applicants submit that such amendment places the application in condition for allowance and thus, requests such amendment be entered.

The Examiner has rejected claims 21-35 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully disagree. Claims 21-25 are directed to a system and use permissible means-plus-function language to recite the structure of the system. 35 U.S.C. § 112, paragraph 6, provides: “an element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.” Additionally, “35 U.S.C. 112, sixth paragraph states that a claim limitation expressed in means-plus-function language ‘shall be construed to cover the corresponding structure...described in the specification.’ ” See MPEP 2181(II). Accordingly, a patentee may generically define a structure for performing a particular function through the use of a means expression, provided that structure for performing the recited function is disclosed in the patent specification. The specification of the current application describes various structures for performing the functions recited in claims 21-25. For example, Figures 2, 4 and 5 and corresponding descriptions of these figures in the specification provide such support. The Examiner stated that “the structure must include a specific algorithm.” Applicants disagree. All that is required to obviate a Section 112 rejection is to present some structure of the invention in the claims, such as through permissible means-plus claim language. Applicants know of no M.P.E.P. section which requires a “specific algorithm” to be recited in an apparatus claim. Applicants submit that the apparatus claim of claim 21 is definite and thus, respectfully request reconsideration and withdrawal of the section 112 rejection of claims 21-25.

With regard to the Section 112 rejection of claim 26, Applicants have amended claim 26 to recite a system and to change “engine” to “computer,” as suggested by the Examiner. Applicants thank the Examiner for such suggestion and request reconsideration and withdrawal of the Section 112 rejection of claim 26 and claims 27-35 which are dependent therefrom.

The Examiner has rejected claims 21-35 under 35 U.S.C. 101 as directed to non-statutory subject matter. Claim 21 recites an “apparatus” and because apparatus is not software, claim 21 is not directed to software *per se*, as indicated by the Examiner. Additionally, as discussed above, a patentee may generically define a structure for performing a particular function through the use of a means expression, provided that structure for performing the recited function is disclosed in the patent specification. The specification of the present application teaches that the software and hardware work in concert together to perform at least one of the means-plus elements of claim 21. For example, on paragraph [0007] of the present application, “the system of the invention can include various engines and data repositories that work together to provide the means for implementing embodiments of the invention.” Thus, the means-plus functionality in claim 21 refers to software in combination with hardware. The Examiner contends that a broad interpretation of claim 21 could result in only software. However, as stated above, the means-plus language inserts hardware components into the claim and thus, a broad interpretation of claim 21 cannot only be software. For all of the above reasons, claim 21 is directed to statutory subject matter. Claims 22-25 are dependent from independent claim 21 and as such, are also directed to statutory subject matter.

With regard to the Section 101 rejection of claim 26, claim 26 has been amended to recite a system that includes a computer, per the suggestion of the Examiner. As such, claim 26 and all claims dependent therefrom recite patentable subject matter.

For all of the above reasons, claims 21-35 are directed to patentable subject matter and withdrawal of the Section 101 rejection of claims 21-35 is respectfully requested.

The Examiner has rejected claims 1-35 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,376,587 to Neofytides et al. (“Neofytides”). A claim is anticipated only if each and every element as set forth in the claim is found in the reference. M.P.E.P. 2131. All of Applicants’ claims, as amended herein, recite elements not fairly taught or disclosed in Neofytides.

For example, independent claims 1, 11, 21 and 26 recite that at least one specific request from among the account-holder requests authorizes a specific third party participant to perform a plurality of recurring third-party transactions on behalf of the account holder. Applicants can find

no such teaching in the cited portions of Neofytides, but rather a discussion of a one-time transfer of money from one person to another person.

Also, each of Applicants' independent claims recites "receiving, at the financial institution . . ." Nowhere does Neofytides disclose a financial institution or that a financial institution receives any authorization requests. The Examiner stated that Neofytides inherently discloses such claim limitation because Neofytides mentions a bank account. However, Neofytides only relates to transactions between two people and does not inherently disclose that a financial institution receives requests to authorize multiple third-party transactions. The banks that are associated with the bank accounts in Neofytides only receive a request from the account holder to transfer money via a single transaction. There is no disclosure of multiple third party transactions or a request to authorize the multiple transactions. Such limitation is not inherent in Neofytides. For a proper rejection under Section 102, the Examiner must demonstrate that the identical invention is "shown in as complete detail as contained in the....claim," and that the elements are "arranged as required by the claim...." M.P.E.P. § 2131. Such burden has simply not been met.

With respect to claim 1, Neofytides does not disclose receiving "a confirmation that the at least one specific third-party participant's accounting system has been updated based on the at least one specific request," as recited in claim 1. This is because Neofytides only deals with a one-time transfer of money from one person to another and not a plurality of recurring *third-party* transactions. In the Final Office Action, the Examiner cited column 13, lines 4-13 and column 14, lines 20-27 as allegedly teaching this limitation of claim 1. However, Neofytides does not disclose a third party updating an accounting system. In fact, there is no mention whatsoever in Neofytides of any accounting system. Further, there is certainly no disclosure in Neofytides of a *confirmation* that the accounting system has been updated. Accordingly, claim 1 is submitted to be patentably distinct over Neofytides.

For at least the above-identified reasons, all of the independent claims, including claims 1, 11, 21, and 26, are patentable over Neofytides and reconsideration and withdrawal of the section 102(e) rejection of such claims is requested.

Applicants submit that since, based on the above arguments, all of the independent claims rejected under section 102 are patentable, all of the dependent claims are also patentable for at

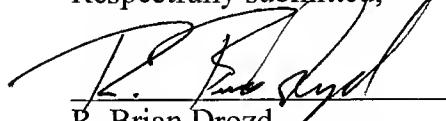
least the same reasons. However, Applicants would like to specifically comment on claim 6, where the Examiner points to col. 4, lines 1-10 of Neofytides as teaching “how a user directs a money transfer request to another individual or entity.” Claim 6, as amended recites “the account-holder requests comprise at least one direct-deposit request to authorize the at least one specific third-party participant to periodically direct deposit funds to the account.” Applicants can find no such teaching in the cited portions of Neofytides, but rather a discussion of a one-time transfer of money from one person to another person. In the Final Office Action, the Examiner cited column 1, line 57 to column 2, line 2 of Neofytides, which states that an account holder may schedule future or recurring transactions. However, there is no mention of authorizing a *third-party participant* (and not the account holder) to periodically direct deposit funds to the account. Neofytides clearly does not teach “at least one direct-deposit request to authorize the at least one specific *third-party participant* to periodically direct deposit funds to the account,” as recited in claim 6. As such, Applicant’s request reconsideration and withdrawal of the section 102 rejection of claim 6 as well as the rejections of all other dependent claims.

Applicants believe they have responded to the Examiner’s concerns, and that the application is in condition for allowance. Reconsideration of this application as amended is hereby requested.

Date: 1/7/09

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